

RELIEF OF CERTAIN MEMBERS OF THE NAVAL SERVICE,
WITH RESPECT TO SHIPMENTS OF HOUSEHOLD
EFFECTS

JULY 4 (legislative day, JUNE 27), 1952.—Ordered to be printed

Mr. KILGORE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 6558]

The Committee on the Judiciary, to which was referred the bill (H. R. 6558) for the relief of George Blech and others, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to afford relief to certain members of the naval service in connection with local shipments of household effects on changes of station ordered during the period March 1, 1946, to January 31, 1949. The local shipments involved were from one residence or location to another within the same city or area. Seven members of the naval service would be reimbursed for amounts repaid by them to the Government for the costs of such shipments, and four members would be relieved of liability to the United States for the costs of shipments in their cases.

STATEMENT

This bill was introduced by the chairman of the Armed Services Committee at the request of the Department of the Navy.

The Navy Department stated that the claimants named in the bill unwittingly became indebted to the United States Government because of a misinterpretation of the regulations governing shipments of household effects on the part of certain supply officers, who had failed to give proper consideration to certain decisions of the Comp-

troller General with respect to intracity shipment of household effects in connection with orders requiring a change of station or duty.

The committee has carefully considered the arguments both for and against the bill and has concluded that the claimants, acting in good faith pursuant to advice given them by men in the naval service whom they (the claimants) had every reason to believe were competent to give such advice, should not be penalized for acting on such advice.

Attached hereto and made a part of this report is a letter from the Department of the Navy dated January 25, 1952, which gives in detail the facts with respect to each individual named in the bill as well as the circumstances out of which the claims arose, together with a letter from the Comptroller General dated February 29, 1952, expressing his views on the merits of the bill, and an undated memorandum from the Office of the Judge Advocate General of the Navy with respect to the letter of the Comptroller General.

DEPARTMENT OF THE NAVY,
Washington, D. C., January 25, 1952.

HON. RICHARD B. RUSSELL,
*Chairman, Committee on Armed Services,
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: There is transmitted herewith a proposed bill for the relief of certain members of the naval service, with respect to shipments of household effects.

The purpose of the proposed legislation is to afford relief to certain members of the naval service in connection with local shipments of household effects on changes of station ordered during the period March 1, 1946, to January 31, 1949. The "local" shipments involved were from one residence or location to another within the same city or area. Seven members of the naval service would be reimbursed for amounts repaid by them to the Government for the costs of such shipments and four members would be relieved of liability to the United States for the costs of shipments in their cases.

Prior to February 1, 1949, the effective date of Executive Order 10053 establishing uniform regulations governing shipments of household effects for all the uniformed services, the statutory authority for such shipments was the act of March 23, 1910 (36 Stat. 255), made applicable to naval personnel by the Pay Readjustment Act of 1942. The regulations promulgated by the Department of the Navy prior to February 1, 1949, as to the shipment of household effects generally have been given the same force and effect as statutory provisions in the audit and settlement of accounts and claims in the General Accounting Office and for many years were in accord with decisions of the Comptroller General. The regulations generally authorized shipments (including packing, crating, drayage, and unpacking) at Government expense between any points, upon a change of duty station, the Government's obligation being limited, however, to the cost of shipment of the weight shipped, within the authorized allowance, from the old station to the new station. Orders from last station in connection with retirement, relief from active duty, or transfer to the Fleet Reserve were interpreted as change-of-station orders authorizing the shipment of household effects. The regulations in effect on the date the orders are required to be obeyed determined the rights and benefits to which naval personnel were entitled.

In a decision, B-70497, to Col. Carl Witcher, United States Army, dated November 12, 1947 (27 Comp. Gen. 274), followed by decisions to the Secretary of the Army, B-77019, dated June 30, 1948, and to the Secretary of the Navy, B-82287, dated March 14, 1949, the Comptroller General has indicated, by extension of the principles laid down by earlier decisions, that the movement of household effects from one residence to another at, or within the immediate vicinity of, the same station or city does not constitute a shipment of household effects authorized to be made at Government expense. Numerous exceptions to payments made to commercial moving and storage contractors, and to payments made to naval personnel on claims for reimbursement, have been taken in the audit of vouchers by the General Accounting Office on the basis of the above-cited decisions. These decisions have since been applied regardless of whether

the ordered change of station involved a change in place of duty and regardless of whether the orders effected a change in the individual's official duty status such as reasonably would require a change in his living arrangements. The regulations in effect after February 1, 1949, under Executive Order 10053 and later under Joint Travel Regulations promulgated pursuant to the Career Compensation Act of 1949 have since authorized intracity shipments of household effects.

Following is a statement of facts and an outline of applicable Department regulations in each of the cases covered in the proposed legislation in the order in which the names of the individuals appear in the proposed bill:

Blech, George, lieutenant (junior grade), United States Naval Reserve

(1) Lieutenant (junior grade) Blech's household effects were moved on or about March 15, 1946, from Buckley and Skokie Roads, Skokie, Ill., to 7401 Kenneth, Skokie, Ill., incident to orders dated March 11, 1946, directing his release from active duty at the United States Naval Training Center, Great Lakes, Ill. The officer's home of record when ordered to active duty was Milwaukee, Wis.

(2) Regulations of the Department of the Navy in effect at the time the officer's rights accrued authorized the shipment of household effects, upon termination of active duty, between any points but limited in cost to shipment of the same weight within allowance from place of duty to home of record at the time ordered to active duty.

(3) Payment of \$20.88 was made to the contractor involved for the services rendered in connection with the shipment. Exception to the payment was taken by the General Accounting Office on the ground that shipment of household effects at Government expense from residence to residence within the same city or adjacent area was not authorized. Accordingly, the sum of \$20.88 was recovered from Lieutenant (junior grade) Blech.

(4) Inasmuch as the shipment of this officer's household effects was authorized by Department of the Navy regulations in effect at the time and because the cost of the local shipment made was less than that which might have been incurred had shipment been made to another city, it is considered that a saving to the Government has in effect resulted and that the owner should not be required to bear the cost of the shipment.

DuBois, Samuel W., captain, United States Navy

(1) Captain DuBois' household effects were moved on or about February 11, 1947, from 3642 Windom Place NW., Washington, D. C., to 4832 Drummond Avenue, Chevy Chase, Md., incident to orders dated July 11, 1946, directing a permanent change of station from U. S. S. *Duluth* (CL 87) to General Board, Navy Department, Washington, D. C.

(2) Regulations of the Department of the Navy in effect at the time the orders were required to be obeyed provided in pertinent part as follows:

"1871-1. *Conditions under which shipment is authorized.*—(a) Authority: (4) orders to change from duty on board a vessel to duty at a shore station.

"1872-1. *Points between which shipment may be made.*—(i) From any points in the United States to new permanent station.

"1872-2. *Limitation on costs.*—(a) When other than duty station is involved: In any case under paragraph 1 (h), (i), and (j), the cost of transportation will be limited to that which it would cost to transport the same weight, within entitled weight allowance, from the last permanent station (shore station, home yard, or home port), whichever cost is the greater, at the lowest rate or cost and at the agreed or declared value at which such lowest rate or cost is applicable."

(3) Payment of \$226.25 was made to the American Storage Co. for services rendered in connection with the packing and hauling required. Exception to the payment was taken by the General Accounting Office on the ground that since the household effects were located in Washington, D. C., when orders assigned the owner to duty there were issued, no right to transportation of household effects accrued. Accordingly, the sum of \$226.25 was recovered from Captain DuBois.

(4) The above-quoted regulations neither prohibited nor specifically authorized the services in this case. The regulations were construed by the owner and by the supply officer who arranged for the shipment as authorizing the services performed and the Department of the Navy considers that such construction was reasonable. Had the effects been shipped from a point other than within the metropolitan area of Washington, D. C., shipment at public expense clearly would have been authorized under the regulations, although at a greater cost than

the cost of the shipment as made. The shipment was accomplished in good faith under regulations purporting to authorize such shipment.

Foley, Charles T., lieutenant commander, United States Navy

(1) Lieutenant Commander Foley's household effects were moved on or about November 15, 1948, from 1079 Madison Avenue, Harborside Addition, Chula Vista, Calif., to 4878 Lorraine Drive, San Diego, Calif., incident to orders dated September 27, 1948, directing a permanent change in station from duty with Sub Group 1, San Diego Group, Pacific Reserve Fleet, San Diego, Calif., to duty abroad the U. S. S. *Cadmus* (AR-14) whose home port was Norfolk, Va.

(2) Regulations of the Department of the Navy in effect at the time the orders were required to be obeyed authorized the shipment of household effects upon receipt of orders to change from duty at a shore station to duty on board a vessel. The points between which shipments were allowed were from the last permanent shore station to the home yard or home part of the vessel.

(3) Payment of \$122.20 was made to the contractor for the hauling required. Exception to the payment was taken by the General Accounting Office on the basis that transportation of household effects at Government expense from residence to residence within the same city or adjacent area was not authorized.

(4) Under the regulations in effect, Lieutenant Commander Foley, having been ordered to duty aboard a vessel, could have shipped his household effects to Norfolk, Va., the home port of the vessel to which he was ordered. Inasmuch as the local shipment actually was made at a lower cost and in effect resulted in a saving to the Government, the Department of the Navy recommends that the owner be reimbursed for the amount involved. It is considered that the shipment was made in good faith on the part of the owner and the supply officer responsible for processing the owner's application for shipment.

Shaw, Willis A., lieutenant, United States Naval Reserve

(1) Lieutenant Shaw's household effects were moved on or about August 13, 1948, from 3810 Southern Avenue SE., Washington, D. C., to 3960 Pennsylvania Avenue SE., Washington, D. C., incident to orders to active duty dated July 15, 1948, directing temporary duty at Washington, D. C., in the office of the Chief of Naval Operations and, upon completion, duty aboard the U. S. S. *Mauzy* (AGS-16). Although his orders were addressed to him at Washington, D. C., his home of record was Bloomfield, Iowa.

(2) Regulations of the Department of the Navy in effect at the time Lieutenant Shaw's orders to active duty were required to be obeyed authorized shipment of household effects upon receipt of such orders from his home of record to any point in the United States. In cases of shipments made from a point other than the home of record, the regulations limited the cost of the shipment to the cost which would be incurred from the home of record.

(3) Payment of \$137.03 was made to the contractor involved for the services rendered in connection with the shipment. Exception was taken by the General Accounting Office on the basis that there is no authority for shipment of household effects at Government expense from residence to residence in the same city. Accordingly, the sum of \$137.03 was recovered from Lieutenant Shaw.

(4) The shipment of Lieutenant Shaw's household effects as made was at a lesser cost than might have been incurred had shipment been made to a more distant point, and in effect resulted in a saving to the Government. Under the circumstances and since the shipment was made in good faith under regulations which purported to authorize the shipment, the Department of the Navy considers that the owner should be reimbursed in the amount recovered from him.

Van Keuren, Alexander H., rear admiral, United States Navy, retired

(1) Rear Admiral Van Keuren's household effects were moved on or about July 1, 1946, from storage at Chevy Chase, Md., to 2823 Twenty-ninth Street NW., Washington, D. C., incident to orders dated March 27, 1946, directing his detachment from duty in the Office of the Chief of Naval Operations, Washington, D. C., and relief from all active duty.

(2) Rear Admiral Van Keuren had been placed on the list of retired officers of the United States Navy on April 1, 1945, and ordered to continue on active duty. Under his orders of March 27, 1946, relieving him from active duty, he was entitled, according to regulations of the Department of the Navy in effect at that time, to shipment of his household effects "from the last duty station and/or place of storage to one or more destinations as may be desired." Other pertinent regulations provided that "the total cost allowed will be limited to the cost of shipment as one lot, within allowance from the last duty station * * * to

the place selected by the person concerned as his official home or place of abode upon retirement * * *

(3) The services of packing, crating, and hauling were secured by the owner at his own expense, and claim for reimbursement was paid in the amount of \$183.69. Exception to the payment was taken by the General Accounting Office on the ground that, since no change of station was involved, hauling of household effects at Government expense from one place to another in the same city was not authorized. Accordingly, the amount of \$183.69 was recovered from Rear Admiral Van Keuren.

(4) The regulations quoted above were considered by the owner and by the Department of the Navy at the time of shipment as authorizing the shipment in question. The regulations stated that shipment was authorized to the place selected by the owner as his official home. The cost of the shipment as made was less than the costs which might have been incurred had the owner selected a more distant place as his home upon retirement. Orders from last station in connection with retirement and relief from active duty are considered as change-of-station orders, and the Department of the Navy considers that an owner's right to shipment of his household effects to a home selected by him upon retirement should not be defeated, to the disadvantage of the owner and a corresponding financial gain to the Government, solely because the home selected happens to be located in the same vicinity as the last duty station. The shipment and the reimbursement therefore were made in good faith under regulations which purported to sanction the shipment at Government expense.

Whitehead, Ely L., Captain, United States Navy, Retired

(1) Captain Whitehead's household effects were moved on or about September 17, 1948, from 4216 Madison Avenue, San Diego, Calif., to 4024 South Hempstead Circle, San Diego, Calif., incident to orders dated July 8, 1947, directing this officer's detachment from duty at the Marine Corps Base, San Diego, Calif., and his relief from active duty. The orders also directed that he proceed to his home to await retirement.

(2) Under the provisions of regulations of the Department of the Navy in effect at the time the orders were required to be obeyed, this officer was entitled to shipment of his household effects at Government expense "from the last duty station and/or place of storage to one or more destinations as may be desired." Other pertinent regulations provided that "the total cost allowed will be limited to the cost of shipment as one lot, within the weight allowance, from the last duty station * * * to the place selected by the person concerned as his official home or place of abode upon retirement."

(3) Payment of \$175.20 was made to the carrier for the hauling required. Exception to the payment was taken by the General Accounting Office on the basis that the hauling of household effects at Government expense from residence to residence within the same city or immediate area was not authorized. Accordingly, the amount of \$175.20 was recovered from the owner.

(4) Under the provisions of the regulations heretofore outlined Captain Whitehead upon relief from active duty was authorized to ship his household effects at Government expense to any point selected by him as his official home. The Department of the Navy considers that an owner's right to shipment of his household effects to a home selected by him upon retirement should not be defeated, to the financial loss of the owner and a corresponding gain by the Government, merely because the household effects and the home selected happen to be located in the same city or vicinity. The shipment was accomplished in good faith under regulations purporting to authorize such shipment at Government expense and the Department of the Navy, therefore, recommends that the owner be reimbursed in the amount recovered from him.

Young, David B., Captain, United States Navy

(1) Captain Young's household effects were moved on or about October 17, 1946, from 2927 Northampton Street NW., Washington, D. C., to 3326 Stuyvesant Place NW., Washington, D. C., incident to orders dated January 18, 1946, directing a permanent change of duty from the U. S. S. *Takamis Bay* (CVE-89) to the Navy Department, Washington, D. C.

(2) The regulations of the Department of the Navy governing the shipment in this case were the same regulations heretofore quoted in the case of Captain Samuel W. DuBois, United States Navy.

(3) Payment of \$292.66 was made to the contractor for the required services rendered in connection with the shipment. Exception to the payment was taken

by the General Accounting Office on the ground that the intra-city movement of household effects at Government expense, from residence to residence is not authorized. Accordingly, the sum of \$292.66 was recovered from the owner.

(4) The regulations applicable to this case neither prohibited nor specifically authorized the shipment and related services. The regulations were construed by the owner and by the supply officer who arranged for the shipment as authorizing the services performed, and the Department of the Navy considers that such construction was reasonable. Had the effects been shipped from a point other than within the metropolitan area of Washington, D. C., shipment at Government expense clearly would have been authorized under the regulations although at a greater cost than the cost of the shipment as made. The shipment was accomplished in good faith under regulations purporting to authorize such shipment.

Covell, Louis C., Jr., Commander, United States Naval Reserve

(1) Commander Covell's household effects were moved on or about December 9, 1947, from 1210 North Veitch Street, Arlington, Va., to Fairfax Farms, Fairfax County, Va., incident to orders dated February 4, 1946, directing his detachment from duty in the Bureau of Aeronautics, Navy Department, Washington, D. C., and directing him to report to the Naval Personnel Separation Center, Washington, D. C., for release to inactive duty. This officer has certified that his home of record at the time he was called to active duty was Dobbs Ferry, N. Y.

(2) Regulations of the Department of the Navy in effect at the time the orders were required to be obeyed authorized shipment of household effects upon termination of active duty between any points but limited in cost to shipment of the same weight within allowance from place of duty to home of record at time ordered to active duty. Shipment was authorized within 1 year after the termination of war or within 1 year after date of release from active duty whichever is later.

(3) Payment in the amount of \$293.11 was made to the contractor for the packing and hauling services performed. Exception to the payment was taken by the General Accounting Office on the ground that the shipment of household effects from residence to residence within the same city or adjacent area is not a change-of-station shipment authorized to be made at Government expense. This case together with that of Lt. (junior grade) James N. Verner, United States Naval Reserve, was the subject of a decision by the Assistant Comptroller General, B-82287 of March 14, 1949, in which the audit action was affirmed.

(4) The shipment of household effects in this case was accomplished in good faith on the part of the owner and the supply officer who arranged for the services and was considered as authorized by the regulations in effect which provided for shipments "between any points" at Government expense. The Department of the Navy considers that the owner should not be required to bear the cost of the shipment made which was less in cost than a shipment of the same effects to a point outside the Washington, D. C., area.

Smith, William W., vice admiral, United States Navy, retired

(1) Vice Admiral Smith's household effects were moved on or about December 15, 1947, from 1914 Connecticut Avenue NW., Washington, D. C., to 3410 Newark Street NW., Washington, D. C., incident to orders dated May 29, 1945, directing his detachment from duty with the General Board, Navy Department, Washington, D. C., and his relief from active duty. The orders directed that he proceed to his home and await retirement.

(2) Regulations of the Department of the Navy in effect at the time of Vice Admiral Smith's relief from active duty entitled him to shipment of his household effects at Government expense "from the last duty station and/or place of storage to one or more destinations as may be desired * * *. Other pertinent regulations provided that "the total cost allowed will be limited to the cost of shipment as one lot, within the weight allowance, from the last duty station * * * to the place selected by the person concerned as his official home or place of abode upon retirement * * *" and that "shipment is authorized within 1 year after the termination of the war or within 1 year after the date of retirement, whichever is later."

(3) Payment was made in the amount of \$429.55 for the hauling and related services required. A refund of \$43.10 was subsequently made by the contractor, thereby reducing the total cost of the services to \$386.45. Exception to the payment was taken by the General Accounting Office on the ground that transportation of household effects at Government expense from residence to residence within the same city is not authorized.

(4) The regulations quoted above were considered by the owner and by the Department of the Navy at the time of shipment as authorizing the shipment in

question. The regulations stated that shipment was authorized to the place selected by the owner as his official home. The cost of the shipment as made was less than the costs which might have been incurred had the owner selected a more distant place as his home upon retirement. The Department of the Navy considers that an owner's right to shipment of his household effects to a home selected by him upon retirement should not be defeated, to the disadvantage of the owner and a corresponding financial gain to the Government, solely because the home selected happens to be located in the same vicinity as the last duty station. The shipment was accomplished in good faith on the part of the owner and the supply officer who arranged for the shipment under regulations which purported to sanction the services at Government expense.

Verner, James M., lieutenant (junior grade), United States Naval Reserve

(1) Lieutenant (junior grade), Verner's household effects were moved on or about December 1, 1947, from 5340 Forty-second Street NW., Washington, D. C., to 2113 South Dinwiddie Street, Arlington, Va., incident to orders dated February 8, 1946, directing his detachment from duty on the staff, commander, Naval Air Transport Service, United States Naval Air Station, Oakland, Calif., and directing him to proceed to the Officer Personnel Separation Center, San Francisco, Calif., for temporary duty in connection with processing for release to inactive duty. He certified that his home of record at the time he was called to active duty was Raleigh, N. C.

(2) Regulations of the Department of the Navy in effect at the time the officer's rights accrued authorized the shipment of household effects, upon termination of active duty, between any points but limited in cost to shipment of the same weight within allowance from place of duty to home of record at time ordered to active duty. Shipment was authorized within 1 year after termination of the war or within 1 year after date of release from active duty, whichever is later.

(2) Payment in the amount of \$282.90 was made to the contractor for packing and hauling services rendered. Exception to the payment was taken by the General Accounting Office on the ground that shipment of household effects from residence to residence within the same city or adjacent area is not a change-of-station shipment authorized to be made at Government expense. This case together with that of Commander Louis C. Covell, Jr., USNR, was the subject of a decision by the Assistant Comptroller General, B-82287, of March 14, 1949, in which the audit action was affirmed.

(4) The shipment of household effects was accomplished in good faith on the part of the owner and the supply officer who arranged for the services as authorized by the regulations in effect which provided for shipments "between any points" at Government expense. The Department of the Navy considers that the owner should not be required to bear the cost of the shipments made, which was less than a shipment of the same effects to a point outside the Washington, D. C., area.

Wolohan, Eugene C., lieutenant commander, United States Naval Reserve

(1) Lieutenant Commander Wolohan's household effects were moved on or about October 14, 1946, from (1) 4846B Twenty-eighth Street South, Arlington, Va.; (2) 916 Twenty-first Street South, Arlington, Va.; (3) 6129 Thirty-third Street NW., Washington, D. C.; and (4) 6224 Thirtieth Street NW., Washington, D. C.; to 2729 Terrace Road SE., Washington, D. C., incident to orders dated August 23, 1946, directing his release from active duty in the Bureau of Supplies and Accounts, Navy Department, Washington, D. C. The records of the Department of the Navy show that the officer's home of record when ordered to active duty in 1944 was Rensselaer, N. Y., and that his mailing address was 4607 Twenty-seventh Street, Mount Rainier, Md.

(2) Regulations of the Department of the Navy in effect at the time the officer's rights accrued authorized the shipment of household effects, upon termination of active duty, between any points but limited in cost to shipment of the same weight within allowance from place of duty to home of record at time ordered to active duty. Packing and hauling to storage, and hauling from storage and unpacking, of household effects at point where located were authorized for naval reserves ordered to inactive duty.

(3) Payment of \$262.82 was made to the contractor for the services of packing, hauling, and unpacking in this case. Exception to the payment was taken by the General Accounting Office on the ground that the hauling of household effects at Government expense from residence to residence within the same city or immediate area is not authorized.

(4) The shipment of household effects was accomplished in good faith on the part of the owner and the supply officer who arranged for the services and was

considered as authorized by the regulations in effect which provided for shipments "between any points" at Government expense. The Department of the Navy considers that the owner should not be required to bear the cost of the shipment made, which was less than a shipment of the same effects to a point outside the Washington, D. C., area.

The Department of the Navy believes that the granting of relief in the foregoing cases would be equitable and just, and accordingly recommends that the proposed legislation be enacted.

The cost to the Government represented by the payments to be made under section 1 of the proposed bill is \$1,157.91, and section 2 would legalize payments previously made in the sum of \$1,225.28.

An identical letter has been transmitted to the Speaker of the House of Representatives this date.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

FRANCIS P. WHITEHAIR,
Under Secretary of the Navy.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, February 29, 1952.

HON. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate.*

MY DEAR MR. CHAIRMAN: Reference is made to your letter of February 6, 1952, acknowledged by telephone on February 8, 1952, forwarding for study and report thereon a copy of S. 2583, Eighty-second Congress, Second session, entitled "A bill for the relief of certain members of the naval service, with respect to shipments of household effects."

The bill reads in part as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the following members of the naval service the amounts listed opposite their names, representing amounts repaid by them to the United States to cover the costs of shipments of household effects, including packing, crating, drayage, and unpacking from one residence or location to another residence or location in the same city or area, within the period from March 1, 1946, to January 31, 1949, which shipments at Government expense, although accomplished in good faith, have been held not to have been authorized."

There then follows a list of seven officers concerned showing the amount proposed to be authorized for payment to each.

Section 2 of the bill provides in part as follows:

"The following members of the naval service are hereby relieved of liability to the United States in the amounts stated opposite their names, representing costs of shipments of household effects including packing, crating, drayage, and unpacking from one residence or location to another residence or location in the same city or area, during the period from March 1, 1946, to January 31, 1949, which shipments at Government expense, although accomplished in good faith, have been held not to have been authorized."

There then follows a list of four officers concerned showing the amount of which each is to be relieved of liability to the United States. And section 3 of the bill is as follows:

"The Comptroller General of the United States is directed to allow credits in the settlement of the accounts of the disbursing officers concerned for payments heretofore made for the costs of the shipments of household effects including packing, crating, drayage, and unpacking, set forth in section 2 of this Act."

Paragraph 5 of section 12 of the Pay Readjustment Act of 1942 (56 Stat. 359, 366), authorizing transportation at Government expense of dependents of certain service personnel when ordered to make a permanent change of station, reenacted the authority theretofore contained in section 12 of the act of May 18, 1920 (41 Stat. 604), extending to the personnel of the Navy the benefit of the laws applying to the Army and the Marine Corps for the transportation of household effects. The basic statutory provision for transporting household effects at Government expense was in the nature of an authorization to the Secretary of

War and, by assimilation, to the Secretary of the Navy, to use funds appropriated for such purpose without prescribing or limiting the conditions or circumstances of such use. Hence, the regulations issued within the statutory concept of a change-of-station baggage allowance by the head of the department concerned governing the transportation of household effects of officers and certain enlisted men upon orders to make a permanent change of station were generally considered as having the force and effect of law. Thus, prior to February 1, 1949, the transportation of household effects of naval personnel at Government expense was governed by regulations promulgated by the Navy Department and published in articles 1870 to 1882, Bureau of Supplies and Accounts Manual. Such regulations generally authorized the shipment (including packing, crating, drayage, and unpacking) at Government expense, within prescribed weight allowances, upon changes of station, between any points, but limited the Government's obligation to the cost of shipment within the authorized weight allowance from the old station to the new station.

In a proposed explanatory letter from the Department of the Navy to the Speaker of the House of Representatives concerning the draft of a bill identical with subject bill, and in justification of its proposed request for legislation authorizing reimbursement to the said seven officers for the cost of moving household effects, including packing, crating, drayage, and unpacking from one residence or location to another residence or location in the same city or area, and directing that credit be allowed in the accounts of disbursing officers for payments made for like services for the said four officers, it was stated, in brief, that the owners and the supply officers involved construed then-existing regulations as authorizing such intra-city or intra-area movements of household effects at Government expense, and that such movements in effect resulted in savings to the Government since the expense so incurred was less than the cost would have been had maximum authorized shipments been made. As to the construction reported to have been placed upon the regulations by the owners and supply officers concerned, on the premise that, in general, the obligation of the Government with respect to transportation of household effects of certain military personnel was to relieve such personnel, within certain prescribed limitations, of the expense of transporting such effects arising in consequence of an ordered change of station, retirement, or release from active duty, it long has been held in the published and unpublished decisions of this office as to the regulations in effect prior to February 1, 1949, that such regulations did not authorize the shipment of household effects at Government expense from one residence to another within the same city, or area incident to a change of station, such a move being considered incident to an officer's or enlisted man's personal arrangement for location of his residence (2 Comp. Gen. 344; 13 id. 210; 27 id. 274). There are numerous unpublished decisions of this Office in which the same principle was applied.

In the said proposed explanatory letter of transmittal from the Department of the Navy to the Speaker of the House of Representatives as above-mentioned, there was indicated a belief that reimbursement for expenses incurred in making unauthorized shipments of household effects warrants favorable consideration where such expenses were no greater than those which might have been incurred had the maximum authorized shipment been made. However, such contention appears to have no greater merit than would a contention that where less than the authorized weight allowance is shipped a greater distance than that authorized, or more than the authorized weight allowance is shipped a lesser distance than that authorized, full reimbursement to the owners should be made where the expenses so incurred do not exceed the expenses which would have been incurred had the maximum weight authorized been shipped the maximum authorized distance. As to the reputed saving in such cases as these, it seems self-evident that the mere failure of an officer to incur the maximum authorized expense for transportation of household effects in connection with each and every ordered change of station properly is not to be viewed as reflecting a saving to the Government.

Uniform regulations governing the transportation of household effects, applicable to Navy personnel, prescribed by the heads of the departments concerned and approved by the President pursuant to section 205 of the act of August 2, 1946, issued April 20, 1949, effective February 1, 1949, and the superseding joint transportation of household goods regulations effective April 1, 1951, issued pursuant to the authority contained in the Career Compensation Act of 1949 (63 Stat. 802, 814) authorize simple drayage at Government expense for an intracity movement of household effects when in connection with a permanent change of station, as distinguished from the packing, crating, transportation, and unpacking

or uncrating authorized where the effects are shipped between duty stations or other authorized points. It is obvious, however, that a move from one house to another in the same city where the officer has his family is usually not required for official reasons and has no real relationship to some antecedent change-of-station orders but is dictated by purely personal reasons. There is no more reason for the Government to pay for such residential moves by military personnel in and about the same city than to pay for similar moves by civil officers and employees or, for that matter, by civilians generally.

In view of the foregoing and of the further fact that enactment of the proposed bill would afford preferential treatment to the 11 officers named therein not only over other naval personnel who may be similarly situated but over members of the Army and Air Force who have been required to bear the expense of moving their household effects from one location to another in the same city or area, notwithstanding they might be able to point to some antecedent change of station orders, I have to recommend against favorable consideration of the subject bill.

As requested, this report is being forwarded in triplicate.

Sincerely yours,

LINDSAY C. WARREN,
Comptroller General of the United States.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C.

Memorandum for: Mr. J. C. Ruddy, Senate Judiciary Committee, room 424, Senate Office Building.

Subject: S. 2583 and H. R. 6558, for the relief of certain members of the naval service with respect to shipments of household effects.

1. The Department of the Navy has considered the letter of the Comptroller General, B-106027, of February 29, 1952, and submits the following comments in reply thereto.

2. The Comptroller General has recommended against enactment of legislation to relieve the officers named in the bill on the basis that regulations in effect prior to February 1, 1949, did not authorize the shipment of household effects at Government expense from one residence to another within the same city or area incident to a change of station, such a move being considered incident to an officer's or enlisted man's personal arrangement for location of his residence. Of the published decisions cited in support of the principle (2 Comp. Gen. 344, 13 id. 210, and 27 id. 274), the first two were rendered in time of peace under the act of June 30, 1922 (42 Stat. 729), making appropriations for military and nonmilitary activities of the War Department for the fiscal year 1923, and section 12 of the act of May 18, 1920 (41 Stat. 604), respectively, and the departmental regulations thereunder.

3. Notwithstanding those decisions, of which many supply officers were either unaware, or which the supply officers considered were not applicable under the particular ordered change of station, some supply officers, acting entirely in good faith and believing such moves to be authorized under the governing regulations, did in fact authorize certain intracity movements of household effects at Government expense. It will be remembered that many new problems arose during the period of mobilization and demobilization of retired and Reserve personnel and during the period of hostilities. Temporary laws which were much more liberal and flexible than the existing permanent laws were enacted on October 14, 1942 (56 Stat. 786), and November 28, 1943 (57 Stat. 393), to meet wartime conditions, which laws authorized shipments between points and under circumstances not contemplated by the permanent laws and which made suitable provision for personnel ordered to and from sea duty or places to which their dependents were not permitted to accompany them, for personnel whose dependents were being evacuated for military reasons or to relieve congestion in the vicinity of naval activities, and for personnel ordered to or from duty under secret or confidential orders. In view of the frequency and number of revisions which were necessary to be made in the regulations in order to provide for new situations and constantly changing conditions, it is not surprising that the rights of some individuals to transportation of their household effects at Government expense were misunderstood both by the individual who desired to move his effects and by the supply officer whose duty it was to process the individual's application for shipment.

4. There are many cases where application of the Comptroller General's ruling works no particular hardship even during war or postwar periods as in those

cases where the ordered change of duty is from one point to another within the same city and the requested movement of household effects is from one residence to another, also within the same city, and the change of duty does not demand a change in the individual's living arrangements. Other cases have come to the Department's attention through the years where the rule has imposed a real hardship on the individual affected. Instances have arisen particularly at naval activities in or near the large cities such as New York, Chicago, and San Francisco, and in or about Pensacola, where the individual, upon being ordered to duty at another station in the same area, has been held, under the rule announced by the Comptroller General, not to be authorized to move his household effects at Government expense to a point near the new station even though public transportation between his residence (near the old station) and the new station was inadequate or nonexistent. It was because of the obvious inequities which would continue to arise in such cases that the current regulations, which were issued under the more recent statutes, have included provisions authorizing intracity moves.

5. The intracity move, although frequently not strictly required for official reasons, is sometimes made necessary by conditions over which the individual in the military service can have no control, and by conditions which exist because of his military service. Unlike civil officers and employees, and unlike civilians generally, the man in the service is subject at all times to military jurisdiction and control. The housing arrangements which he is able to maintain for himself and his family are necessarily only temporary or of uncertain duration, and are subject to modification with each ordered change of duty. Changes of duty are frequent for service personnel, but are infrequent and even rare for most civil employees. Only if the actual conditions of his service are disregarded can it be said that a move from one house to another in the same city by an individual in the military service is dictated by purely personal reasons. Entry into the active service from civilian life and relief from active service both effect changes in the status of the individual as to require many economic adjustments on his part. A change in housing arrangements is one of the more usual adjustments made necessary by the change of status and although personal preference enters into the selection of housing by the individual the necessity for the change in living arrangements arises from the change in status.

6. The subject bill was proposed by the Navy Department on the basis of equity and good conscience. The cases of the individuals who are included in the bill involve Reserve officers released from active duty to return to civilian life, Regular officers upon retirement and release from all active duty, Regular officers released and ordered home to await retirement, Regular officers ordered from sea duty to shore duty or from shore duty to sea duty, and a Reserve officer ordered to active duty with sea duty as the first permanent duty assignment. The facts and circumstances present in the case of each such individual were materially different from the facts present in the usual change of station. Because of the apparent good faith of the individuals and the several supply officers, and because it would impose considerable hardship on the individual owners of the household effects to require them to bear the costs involved, the Department of the Navy firmly believes, notwithstanding the views and recommendation of the Comptroller General, that relief in these specified cases is justified.

7. The Department of the Navy requests that early hearings be scheduled on subject bill.

E. C. STEPHAN.



